



AN ACT REVISING REGISTRATION AND VOTING FOR ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS; REQUIRING ELECTION ADMINISTRATORS TO ALLOW ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS TO REGISTER AND VOTE ELECTRONICALLY; AUTHORIZING LATE AND SAME-DAY REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS; REVISING WHAT MUST BE INCLUDED IN RULES ADOPTED BY THE SECRETARY OF STATE CONCERNING ELECTRONIC REGISTRATION AND VOTING; REQUIRING THE SECRETARY OF STATE TO REPORT TO THE GOVERNOR AND THE LEGISLATURE; AMENDING SECTIONS 13-21-104, 13-21-201, 13-21-207, AND 13-21-210, MCA; AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 13-21-104, MCA, is amended to read:

**"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds.** (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement 13-21-207. The rules are binding upon election administrators. ~~The rules must require compliance with the same time requirements or deadlines as for registration and voting by absentee ballot by use of the public mails. The rules must maintain the accuracy, integrity, and secrecy of the ballot process and must allow registration and voting by facsimile through use of a private corporation or other private entity for transmission of facsimile messages only if the secretary of state finds that the use is essential to the purposes of this chapter.~~

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a United States elector as soon as the ballots are available pursuant to 13-13-205;

(c) a United States elector may, subject to 13-2-304, register and vote up to the time that the polls close

on election day;

(d) a United States elector is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote; and

(e) a ballot cast by a United States elector and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(e) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

~~(2)(3)~~ The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

**Section 2.** Section 13-21-201, MCA, is amended to read:

**"13-21-201. Registration of United States electors -- simultaneous application for absentee ballot.**

(1) A United States elector may register with the election administrator in the elector's county of residence by properly completing, signing, and returning:

- (a) the voter registration form;
- (b) the federal post card application; or
- (c) the federal write-in absentee ballot as provided in 13-21-205.

(2) A registration application under subsection (1)(a) or (1)(b) must be received by the election administrator ~~not less than 30 days before the election for the registration to be valid for the election. If the registration application is received less than 30 days before the election, the registration application must be processed for the next election~~ by the time specified in 13-2-304 for late registration.

(3) A registration application using a federal post card application or the federal write-in absentee ballot transmission envelope must be considered a simultaneous application for absentee ballots under 13-21-210."

**Section 3.** Section 13-21-207, MCA, is amended to read:

**"13-21-207. Registration and voting by facsimile and internet authorized and voting electronically -- definition.** (1) Notwithstanding other provisions of this title, each election administrator ~~may~~ shall, in any primary election, general election, and special election, allow a United States elector to take the following acts

by facsimile transmission, if facsimile facilities are available, or electronically through the internet for a United States elector, if internet facilities that provide for secrecy are available, actions electronically in place of the public mails:

- (1)(a) register an individual to vote;
- (2)(b) give notice of registration;
- (3)(c) receive requests for an absentee ballot;
- (4)(d) transmit absentee ballots to electors; and
- (5)(e) receive absentee ballots from electors.

(2) A ballot cast by a United States elector pursuant to this section may be counted only if it is transmitted by the elector to the election administrator before the close of polls on election day and is received by the election administrator before 5 p.m. on the day after the election. Ballots received pursuant to this section must be counted at the same time as provisional ballots are counted.

(3) For purposes of this section, "electronically" means by facsimile transmission or electronic mail. The term includes internet-based voting if an internet-based voting system approved by the secretary of state is available to the election administrator."

**Section 4.** Section 13-21-210, MCA, is amended to read:

**"13-21-210. Application for absentee ballots.** (1) (a) A United States elector may apply for a regular absentee ballot as follows:

- (i) by making a written request, which must include the elector's birth date and signature; or
- (ii) by properly completing, signing, and returning to the election administrator the federal post card application.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) An application for a regular absentee ballot must be received by the appropriate county election administrator not less than 30 days before the date of an election. An application for a regular absentee ballot that is received less than 30 days before the date of an election must be processed for the next election by the time specified in 13-2-304 for late registration.

(3) An application under this section is valid for all state and local elections in the calendar year in which the application is made and the next two regularly scheduled federal general elections.

(4) The elector's county election administrator shall provide the elector with a regular absentee ballot for the elections described in subsection (3) as soon as the ballots are printed."

**Section 5. Report by secretary of state.** (1) The secretary of state and county election administrators shall work with staff of the department of military affairs and with other interested parties to identify, investigate, and resolve problems with and challenges to implementing efficient, secure, and timely registration and voting for absent uniformed services electors and overseas electors as required by [this act].

(2) (a) During the 2009-10 interim, the secretary of state shall, whenever requested, report to the state administration and veterans' affairs interim committee on the progress of the investigation.

(b) The secretary of state shall complete the investigation prior to September 1, 2010. Completion of the investigation includes providing a final report of the secretary of state's and election administrators' findings, conclusions, and specific recommendations to the governor and to the legislature as provided in 5-11-210.

(c) If the secretary of state recommends statutory changes or anticipates requesting an appropriation from the 62nd legislature as a result of the investigation, the secretary of state shall, at a time requested by the state administration and veterans' affairs interim committee, present to the committee the concept for the legislation, appropriation, or both.

(3) The state administration and veterans' affairs interim committee shall consider the proposal for legislation as required in 5-5-215.

**Section 6. Effective date.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective January 1, 2012.

- END -

I hereby certify that the within bill,  
SB 0367, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 367  
INTRODUCED BY HAMLETT, ZINKE

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